

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 42

Introduced By: Hudkins, 21;
Read first time: January 4, 2007
Committee: Appropriations

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend sections
2 39-2401 and 77-2602, Revised Statutes Cumulative Supplement,
3 2006; to change provisions relating to distribution of the
4 cigarette tax; to harmonize provisions; to provide an
5 operative date; and to repeal the original sections.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 39-2401 Revised Statutes Cumulative
2 Supplement, 2006, is amended to read:

3 39-2401. There is hereby established the Highway Allocation
4 Fund. There shall be paid into such fund the amounts disbursed from
5 time to time from the Highway Trust Fund as provided by law together
6 with such sums as may be appropriated thereto from the General Fund,
7 proceeds credited to the Highway Allocation Fund as provided in
8 subsection (2) of section 77-2602, and proceeds of sales and use
9 taxes credited to the Highway Allocation Fund under section
10 77-27,132. Any money in the fund available for investment shall be
11 invested by the state investment officer pursuant to the Nebraska
12 Capital Expansion Act and the Nebraska State Funds Investment Act.

13 Sec. 2. Section 77-2602 Revised Statutes Cumulative
14 Supplement, 2006, is amended to read:

15 77-2602. (1) Every person engaged in distributing or selling
16 cigarettes at wholesale in this state shall pay to the Tax
17 Commissioner of this state a special privilege tax. This shall be in
18 addition to all other taxes. It shall be paid prior to or at the time
19 of the sale, gift, or delivery to the retail dealer in the several
20 amounts as follows: On each package of cigarettes containing not more
21 than twenty cigarettes, sixty-four cents per package; and on packages
22 containing more than twenty cigarettes, the same tax as provided on
23 packages containing not more than twenty cigarettes for the first
24 twenty cigarettes in each package and a tax of one-twentieth of the
25 tax on the first twenty cigarettes on each cigarette in excess of
26 twenty cigarettes in each package.

27 (2) Commencing July 1, 1994, and continuing until October 1,

1 2004, the State Treasurer shall place the equivalent of twenty-one
2 cents of such tax in the General Fund. Commencing October 1, 2004,
3 and continuing until October 1, 2007, and commencing October 1, 2012,
4 the State Treasurer shall place the equivalent of forty-nine cents of
5 such tax in the General Fund. ~~The State Treasurer~~ and shall
6 reduce the amount placed in the General Fund under this subsection by
7 the amount prescribed in subdivision (3)(d) of this section.
8 Commencing October 1, 2007, and continuing until October 1, 2012, the
9 State Treasurer shall place the equivalent of forty-nine cents of such
10 tax in the Highway Allocation Fund, to be distributed in the same
11 manner as all other funds accruing to the Highway Allocation Fund.

12 For purposes of this section, the equivalent of a specified
13 number of cents of the tax shall mean that portion of the proceeds of
14 the tax equal to the specified number divided by the tax rate per
15 package of cigarettes containing not more than twenty cigarettes.

16 (3) The State Treasurer shall distribute the remaining
17 proceeds of such tax in the following order:

18 (a) First, beginning July 1, 1980, the State Treasurer shall
19 place the equivalent of one cent of such tax in the Nebraska Outdoor
20 Recreation Development Cash Fund. For fiscal year distributions
21 occurring after FY1998-99, the distribution under this subdivision
22 shall not be less than the amount distributed under this subdivision
23 for FY1997-98. ~~Any~~ Except during the period October 1, 2007, to
24 October 1, 2012, any money needed to increase the amount distributed
25 under this subdivision to the FY1997-98 amount shall reduce the
26 distribution to the General Fund;

27 (b) Second, beginning July 1, 1993, the State Treasurer

1 shall place the equivalent of three cents of such tax in the
2 Department of Health and Human Services Finance and Support Cash Fund
3 to carry out sections 81-637 to 81-640. For fiscal year distributions
4 occurring after FY1998-99, the distribution under this subdivision
5 shall not be less than the amount distributed under this subdivision
6 for FY1997-98. ~~Any~~ Except during the period October 1, 2007, to
7 October 1, 2012, any money needed to increase the amount distributed
8 under this subdivision to the FY1997-98 amount shall reduce the
9 distribution to the General Fund;

10 (c) Third, ~~beginning July 1, 2001, and continuing until~~
11 ~~October 1, 2002, the State Treasurer shall place the equivalent of~~
12 ~~five cents of such tax in the Building Renewal Allocation Fund.~~
13 ~~Beginning~~ October 1, 2002, and continuing until all the purposes of
14 the Deferred Building Renewal Act have been fulfilled, except as
15 otherwise provided in this subdivision, the State Treasurer shall
16 place the equivalent of seven cents of such tax in the Building
17 Renewal Allocation Fund. The Legislature shall appropriate each fiscal
18 year all sums inuring to the fund, plus interest earnings, for the
19 Task Force for Building Renewal to be used to carry out its duties and
20 to fulfill the purposes of the Deferred Building Renewal Act.
21 Unexpended balances existing at the end of each fiscal year shall be,
22 and are hereby, reappropriated. The distribution under this
23 subdivision shall not be less than the amount distributed under this
24 subdivision for FY1997-98. ~~Any~~ Except during the period October 1,
25 2007, to October 1, 2012, any money needed to increase the amount
26 distributed under this subdivision to the FY1997-98 amount shall
27 reduce the distribution to the General Fund;

1 (d) Fourth, until July 1, 2009, the State Treasurer shall
 2 place in the Municipal Infrastructure Redevelopment Fund the sum of
 3 five hundred twenty thousand dollars each fiscal year to carry out the
 4 Municipal Infrastructure Redevelopment Fund Act. The Legislature shall
 5 appropriate the sum of five hundred twenty thousand dollars each year
 6 for fiscal year 2003-04 through fiscal year 2008-09;

7 (e) Fifth, beginning July 1, 2001, the State Treasurer shall
 8 place the equivalent of two cents of such tax in the Information
 9 Technology Infrastructure Fund;

10 (f) Sixth, beginning July 1, 2001, and continuing until June
 11 30, 2016, the State Treasurer shall place one million dollars each
 12 fiscal year in the City of the Primary Class Development Fund. ~~If~~
 13 Except during the period October 1, 2007, to October 1, 2012, if
 14 ~~necessary,~~ the State Treasurer shall reduce the distribution of
 15 tax proceeds to the General Fund pursuant to subsection (2) of this
 16 section by such amount required to fulfill the one million dollars to
 17 be distributed pursuant to this subdivision; and

18 (g) Seventh, beginning July 1, 2001, and continuing until
 19 June 30, 2016, the State Treasurer shall place one million five
 20 hundred thousand dollars each fiscal year in the City of the
 21 Metropolitan Class Development Fund. ~~If~~ Except during the period
 22 October 1, 2007, to October 1, 2012, if necessary, the State
 23 Treasurer shall reduce the distribution of tax proceeds to the
 24 General Fund pursuant to subsection (2) of this section by such amount
 25 required to fulfill the one million five hundred thousand dollars to
 26 be distributed pursuant to this subdivision. ~~;~~ ~~and~~

27 ~~(h) Eighth, beginning October 1, 2002, and continuing until~~

1 ~~October 1, 2004, the State Treasurer shall place the equivalent of~~
2 ~~twenty eight cents of such tax in the Cash Reserve Fund.~~

3 (4) If, after distributing the proceeds of such tax pursuant
4 to subsections (2) and (3) of this section, any proceeds of such tax
5 remain, the State Treasurer shall place such remainder in the Nebraska
6 Capital Construction Fund.

7 (5) The Legislature hereby finds and determines that the
8 projects funded from the Municipal Infrastructure Redevelopment Fund
9 and the Building Renewal Allocation Fund are of critical importance to
10 the State of Nebraska. It is the intent of the Legislature that the
11 allocations and appropriations made by the Legislature to such funds
12 or, in the case of allocations for the Municipal Infrastructure
13 Redevelopment Fund, to the particular municipality's account not be
14 reduced until all contracts and securities relating to the
15 construction and financing of the projects or portions of the projects
16 funded from such funds or accounts of such funds are completed or paid
17 or, in the case of the Municipal Infrastructure Redevelopment Fund,
18 the earlier of such date or July 1, 2009. Except during the period
19 October 1, 2007, to October 1, 2012, ~~and that until such time~~ any
20 reductions in the cigarette tax rate made by the Legislature shall be
21 simultaneously accompanied by equivalent reductions in the amount
22 dedicated to the General Fund from cigarette tax revenue. Any
23 provision made by the Legislature for distribution of the proceeds of
24 the cigarette tax for projects or programs other than those to (a) the
25 General Fund, (b) the Highway Allocation Fund, (c) the Nebraska
26 Outdoor Recreation Development Cash Fund, ~~(e)~~ (d) the Department
27 of Health and Human Services Finance and Support Cash Fund, ~~(d)~~ (e)

1 the Municipal Infrastructure Redevelopment Fund, ~~(e)~~ (f) the
2 Building Renewal Allocation Fund, ~~(f)~~ (g) the Information
3 Technology Infrastructure Fund, ~~(g)~~ (h) the City of the Primary
4 Class Development Fund, ~~(h)~~ and (i) the City of the Metropolitan
5 Class Development Fund, ~~and (i) the Cash Reserve Fund~~ shall not be
6 made a higher priority than or an equal priority to any of the
7 programs or projects specified in subdivisions (a) through (i) of this
8 subsection.

9 Sec. 3. This act becomes operative on October 1, 2007.

10 Sec. 4. Original sections 39-2401 and 77-2602, Revised
11 Statutes Cumulative Supplement, 2006